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S E C R E T SECTION 01 OF 04 KUALA LUMPUR 000068

SIPDIS

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TAGS: [PREL](#) [EFIN](#) [ETTC](#) [PARM](#) [MY](#) [KNNP](#) [IAEA](#)
SUBJECT: AA/S VAN DIEPEN'S MEETINGS IN KUALA LUMPUR ON
NON-PRO AND EXPORT CONTROL ISSUES

REF: 09 KUALA LUMPUR 916

Classified By: POLCOUNS Brian McFeeters for reasons 1.4 (b, d).

11. (S) SUMMARY: MFA Deputy Secretary General Zainol told visiting Acting Assistant Secretary of State for International Security and Nonproliferation Vann Van Diepen in a 90-minute interagency meeting on January 28 that the GOM was in the final stages of reviewing its draft export control law before it goes to Parliament, but he declined to provide a timeframe for when that would happen. Ministry of International Trade and Industry (MITI) Deputy Secretary General Rebecca told Van Diepen in a subsequent meeting that Prime Minister Najib Razak had set mid-March as a deadline for submitting a completed draft law to Parliament. With respect to the Iranian "front" companies list that Special Advisor for Nonproliferation and Arms Control Robert Einhorn passed to the MFA SecGen in November, Zainol said some of these companies had been investigated and others had bank accounts closed; he provided no additional detail, saying that any information had been passed in intel channels (Note: post has no record of such a communications through liaison channels. End note). Zainol said the GOM would consider Van Diepen's suggestion of sustained interagency dialogue on nonproliferation and export controls. He shed no new light on the prospects for Malaysia to replace its Ambassador to the IAEA, saying only that they are working on the question of a new Governor, and once a final decision is made they would approach the IAEA on the issue of the BOG Chairmanship (which Malaysia currently holds). Zainol asked for updates on START negotiations, the Nuclear Security Summit, and the May NPT RevCon. A planned meeting with PM Najib's foreign policy advisor was canceled due to his illness. END SUMMARY.

MINISTRY OF FOREIGN AFFAIRS MEETING

12. (U) Participants:

GOM:

- Mohammed Zainol, Ministry of Foreign Affairs (MFA) Deputy Secretary General II for Multilateral Affairs
- Mohammed Badruddin, Under Secretary for North American and European Affairs
- Bala Chandran, Under Secretary for Nonproliferation and Arms Control
- Zahad Ishan, Assistant Commissioner of Police
- Seng Foo Wong, MITI Senior Director for Economic and Trade Relations
- Other officials from MFA

USG:

- Vann Van Diepen, Acting Assistant Secretary for International Security and Nonproliferation
- Robert Rapson, DCM, U.S. Embassy Kuala Lumpur
- Caroline Russell, Acting Director, ISN Office of Counterproliferation Initiatives
- Rob Gile, Foreign Affairs Officer, ISN Office of

Counterproliferation Initiatives

-- Jonathan Poling, National Security Division, Department of Justice
-- Mark Webber, Senior Advisor to the Under Secretary of Industry and Security, Department of Commerce
-- John Sonderman, Associate Director, Office of Export Enforcement, Department of Commerce
-- Amber Dowdell, Foreign Affairs Officer, ISN Office of Counterproliferation Initiatives
-- PolCouns (notetaker).

13. (C) Deputy Secretary General II Zainol opened the January 28 meeting with Acting Assistant Secretary for International Security and Nonproliferation Van Diepen by recalling Special Advisor Robert Einhorn's November visit to Kuala Lumpur (ref A). He added that the GOM had assembled an interagency team to work on nonproliferation issues, including the agencies present as well as representatives from the Attorney General's Chambers and the Atomic Energy Licensing Board. He noted that MFA is the "focal point" for export control and nonproliferation issues within the GOM. Zainol said the GOM's ultimate goal was a world without nuclear weapons, and that he would welcome discussion on that issue as well as on continued cooperation with the USG on nonproliferation.

14. (C) AA/S Van Diepen cited a world without nuclear weapons as a centerpiece of President Obama's policy. He noted that there was tension between non-nuclear states seeking more progress on disarmament and nuclear states emphasizing nonproliferation, but noted that disarmament could only proceed if there were a solid foundation of nonproliferation to assure nuclear weapons states that everyone else would

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stay at zero if they reduced to zero.

15. (C) Turning to the importance of Malaysia, Van Diepen said that Malaysia was increasingly seen as a "major player" in terms of allowing proliferation activities because of the success of nonproliferation measures in other countries, including the United Arab Emirates and Singapore. Until an export control law and an accompanying enforcement mechanism were in place, proliferators would continue to make use of Malaysia, which was inconsistent with international and United Nations Security Council obligations that both the U.S. and Malaysia were subject to. Malaysia's legitimate business interests would also suffer if it were seen as a "proliferators' playground." Van Diepen said he was interested in the GOM's plans regarding an export control law, requested an update on Iranian front companies that Special Advisor Einhorn had identified (ref A), and suggested establishing a more regular interagency dialogue with the GOM on nonproliferation and export control issues.

Export Control Draft Law

16. (C) The export control law was with the Attorney General's Chambers and in the "final stages of drafting," after which it would go back to cabinet for final ministerial-level approval, Zainol said. He was not able to specify when a draft would be submitted to Parliament. He said the law would be comprehensive, encompassing all nonproliferation issues and dual-use items. It would focus on controlling the export of items prohibited under UN Security Council resolutions; the Malaysians were ambiguous as to whether it would include a "catch-all" clause for items not on control lists. However, the GOM would be on "weak ground" if it decided to go beyond the listed items to seize other items that the USG perceived as posing a proliferation risk, Zainol said, recommending that such items instead be listed on UN sanctions lists. Van Diepen noted that the way to deal with non-listed items was to focus on the intended end use, as called for in UNSCR 1540, adding that information on end use could be developed through enforcement and intelligence means. Van Diepen identified this area as a subject for

further discussion.

17. (C) Zainol said he was not at liberty to provide the text of the draft export control law. Asked about controlling goods that never physically enter Malaysia but are traded by brokerage companies operating in Malaysia, Zainol said that was a difficult area that the GOM would need to study; such coverage was not in the draft law. Van Diepen suggested that the USG could provide additional training related to export control law implementation. Commerce Senior Advisor Mark Webber added that the Department of Commerce could send a technical delegation to Kuala Lumpur for expert-level consultations. Zainol said the GOM would consider the offer, and welcomed upcoming EXBS Commodity Identification Training scheduled for March, noting that they had identified 35 officials to participate. Zainol noted that the GOM is also considering sending officials to the University of Georgia in April for more intensive export control-related training.

Iranian Front Companies

18. (S) Referring to Van Diepen's mention of the list of Iranian front companies provided by Special Advisor Einhorn in November (ref A), Zainol said the GOM had "undertaken investigations on all seven" and had conveyed information to the USG "security agencies" on some of them and was waiting for U.S. feedback. He added that some of the investigations were still ongoing, that some companies were not operating at the moment, that two companies, Skylife and Evertop, had been looked at seriously, and that some exports to Iran had been verified. He said some of the companies on the list (without specifying which ones) were operated by Iranians not based in Malaysia while others were operated by Malaysians. In later discussion Zainol said that some of the companies had their bank accounts closed. Van Diepen asked that all available information regarding the front companies be provided or re-provided to the U.S. Embassy. Van Diepen also noted that front companies can close and reopen quickly under a new name. (Note: in follow-up to Zainol's comment that information on front companies had been passed to U.S. "security" agencies, post checked has no record of any substantive communication on this issue from MFA or Malaysian security/intelligence agencies, including via liaison channels. Embassy is following up with the GOM. End Note)

Further Dialogue on Nonproliferation

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19. (C) Van Diepen opined that the U.S.-Malaysia relationship had reached the point where a sustained, Zainol stated interagency dialogue on nonproliferation was needed, perhaps along the lines of discussions with Singapore. Van Diepen added that the dialogue did not require establishment of a formal structure, but rather could simply be an agreement to sustained discussion of the broad range of nonproliferation and export control issues. Zainol agreed to look into the possibility.

IAEA Board of Governors Chairmanship

10. (C) Van Diepen said the USG welcomed Malaysia's chairmanship of the International Atomic Energy Agency's Board of Governors (BOG), adding that it would be important for the GOM to name a new Ambassador/BOG Chair to resolve growing uncertainty in Vienna. Zainol said that the question was a "work in progress," and that he hoped the USG would extend cooperation to a new BOG Chair if the GOM were to name one. He said they were "working on" the question of a new Governor or not, and once a final decision is made they will approach the IAEA on the issue of the Chairmanship. He had no reply to Van Diepen's reiterated request that the GOM make this sovereign decision soon in light of the pressing

nonproliferation and safeguards work underway at the IAEA.

START, Nuclear Security Summit, and NPT Review Conference

¶11. (C) Zainol requested that Van Diepen provide updates on the Strategic Arms Reduction Talks (START), the Nuclear Security Summit (NSS) in April, and the Nonproliferation Treaty Review Conference in May (NPT RevCon). Van Diepen replied that the U.S. and Russian Federation had reached provisional agreement on warhead and delivery vehicle numbers. Outstanding issues included the verification regime and Russia's request to consider new issues such as advanced conventional weapons. The USG preferred to defer such issues. Zainol said he hoped the START discussions would be a catalyst for other nuclear weapons states to reduce arsenals. On the NSS, Van Diepen said efforts were underway to reach agreed text at preliminary meetings, including a February meeting in The Hague, before the mid-April summit, to which 42 heads of state and government had been invited. Zainol said the GOM appreciated the invitation to Prime Minister Najib. On the NPT RevCon, Van Diepen said the idea was to have a successful conference that would advance in a balanced way all three pillars of the NPT: disarmament, nonproliferation and peaceful uses of nuclear energy, all of which are areas where the U.S. and Malaysia had shared interests. The USG hoped to correct the erosion of the nonproliferation pillar by issues such as the previously undeclared Iranian uranium enrichment facility in Qom. The USG needed Malaysia's help to prevent radical NAM countries including Egypt from undercutting the conference.

Iran Sanctions Act

¶12. (C) Zainol also asked about legislation in the U.S. Congress that could target countries doing business with Iran. Van Diepen explained that the legislation sought to address concerns about Iran's WMD development, sponsorship of terrorism, and interference in the Middle East peace process, and that the Obama Administration was trying to influence the legislation to preserve Executive Branch flexibility. Zainol and MITI's Wong replied that the GOM preferred that pressure on Iran come through UN Security Council resolutions, and that a law that targeted Malaysian companies would be seen as unwarranted action "against a friend." The MITI representative also expressed concerns about the "consequences" of sanctions on "innocent" companies. Van Diepen agreed to take those concerns back to Washington.

Ministry of Trade and Industry

¶13. (C) In a January 28 meeting at the Ministry of Trade and Industry, Deputy Secretary General Dr. Rebecca Fatima Sta Maria told AA/S Van Diepen she understood that MFA had hosted an interagency meeting that morning and asked what more she could tell him. Van Diepen said it would be useful to get a clearer idea of where Malaysia was on the Export Control Law. He added that the U.S. was ready to help with training designed to promote implementation of the law. Rebecca acknowledged that it had taken some time for the importance

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of moving on export control legislation to sink in at MITI and other GOM Ministries, but she said the combination of high-level U.S. visits like that of Special Advisor Einhorn and revelations regarding transshipments had caused the Najib administration to put passage of the export control law on a new and faster trajectory. MITI, she added, which will ultimately be the custodian, had been pushing the interagency group to speed up work to keep to the PM's mid-March deadline. The PM, Rebecca added, had set that deadline because he did not want to go to Washington in April and face embarrassing questions about why Malaysia had not moved

faster on the legislation.

¶14. (C) Van Diepen noted that passage of the export control law would be very important. The UAE, he pointed out, had been a key location for diversion of sensitive items to Iran in the past but had passed an export control law, worked on implementation, cooperated closely with the U.S. and others on specific cases, and successfully interdicted illegal shipments. As a result, companies involved in illegal transshipments were now moving their operations to other locations like Malaysia, so Malaysia needed to monitor the situation closely and act on a law as soon as possible.

¶15. (C) Rebecca noted that the only ASEAN country that had an export control law was Singapore and she asked what the U.S. was doing to engage other ASEAN countries on the issue of export controls. Van Diepen replied that the U.S. addressed this issue principally in the ARF and via UNSCR 1540. He said the U.S. was also interested in raising export control issues in APEC to take advantage of the participation of the private sector but was constrained by concerns raised by China.

¶16. (C) Van Diepen asked about MITI's preparations for implementing the export control law when passed. Rebecca responded that the GOM was in the very preliminary planning stages and would welcome USG support in implementing follow-on actions, including regulation promulgation and interagency coordination.

¶17. (C) Van Diepen informed Rebecca that during his meeting at MFA he had proposed the U.S. and Malaysia establish a regular interagency consultation mechanism that could cover policy issues, as well as discussion of particular cases, and broader issues with regard to implementation of export controls. Rebecca opined that it would be easy to set up such a mechanism once the export control law was in place and she offered to facilitate cooperation across agencies involved in implementation, including MITI, MFA, Defense, and Customs.

¶18. (U) Acting Assistant Secretary Van Diepen cleared this message.
KEITH